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DECEMBER 1990

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ZERO BEAT is published monthly in the interest of the members of the Pikes Peak Radio Amateur Association, Inc., P.O. Box 16521, Colorado Springs, Colorado 80935. Cost is \$1.00 per month for non-members or \$10.00 per year by subscription. Permission is given to reprint articles or excerpts provided credit is given. Deadline for submission of articles or classified ads is the 21st of each month. Submissions may be sent directly to the editor or to the club P.O. Box.

The Pikes Peak Radio Amateur Association meets on the second Wednesday of each month at the Elks Lodge, 5400 North Nevada Ave. at 7 PM.

EDITOR: Ron Deutsch NKØP 4305 Ridgeline Drive, Colorado Springs, Colorado 80918 (719) 593-8352. Electronic data transfer by appointment.

MESSAGE FROM THE PRESIDENT . . .

As many of you will already know, the Boulder County tower ordinance was recently overturned in Federal District Court in Denver. The text of the decision has been reproduced in its entirety in this issue of Ø-BEAT and I would encourage you all to read it. This was accomplished after considerable effort on the part of a number of people and I think we owe them all a great vote of thanks. Even though this decision may not appear to affect us directly, there has been some speculation as to the impact that it may have on the El Paso County ordinance due to be finalized this month. Keep tuned for more details and please try to come to the County Planning Commission meeting if at all possible.

As you may read in the minutes, at the last board meeting, a couple of significant things happened. On the brighter side Jeff, NØJLH, agreed to head up the swapfest committee and, to help spread things out a little, Lauren, KXØO, agreed to take over responsibility for the interference committee. On the not so bright side Bud, NØDDE, decided to resign his position in charge of education. Bud is one of the people who has done so many things for the club over the years and he feels it is time to step aside to make way for someone else. On behalf of the entire membership, I would like extend our sincerest thanks to Bud for everything he has done to help make our club as successful as it has been, and especially to recognize the large number of new licensees Bud has helped bring into the world of amateur radio.

So while we managed to fill one of our committee chairperson openings, we now have another one. I would like to see some of the younger people in the club come forward to help. It's a good opportunity to learn, with some help from those who've been there before, as well as to contribute to the operation of this ARRL Special Service Club. In fact, in order to retain our Special Service Club status, we're going to have to get these committees back in operation quite soon.

This is the time of year when most of us start to celebrate the holidays with our families, and we are starting our club celebrations with the annual party at our next regular meeting on December 12. Unfortunately, by the time you read this, it will be too late to purchase tickets since we need to have the final number to the Elks Club one week prior to the party, but I hope to see many of you there anyway. We all had a good time last year with excellent food and entertainment and we expect this year's party to be at least as good.

In conclusion, on behalf of my XYL Robin, son Chris, and myself, we would like to wish you all happy and safe holidays. And in these times of strife in the Middle East, to all our friends and neighbors on active duty there at this time we wish a safe return.

Merry Christmas and a Happy New Year!

73, Dave, NØION

PRB-1 WIN!

Below is the full contents of the 11/15/90 ruling issued by the Federal Court for the District of Colorado IN FAVOR OF THE HAM, NQOI. The Boulder County Zoning Ordinance has been found constitutionally invalid and in conflict with PRB-1. This ruling is GOOD NEWS for the amateur radio service.

It is of such significance, I believe it appropriate to distribute via the packet network, in spite of it's size. Thanks to N2IC/O for making the electronic copy available.

Ron Klein, W0OSK - Berthoud, CO.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 90-F-1150

D. R. EVANS, Plaintiff,

v.

BOARD OF COUNTY COMMISSIONERS OF
THE COUNTY OF BOULDER, COLORADO,
and GARY GOODELL, in his capacity as Chief
Building Official,

Defendants.

ORDER GRANTING SUMMARY JUDG-
MENT

This matter comes before the court on cross motions for summary judgment, filed September 28, 1990. Jurisdiction is based upon 28 U.S.C. § 1331 (Supp. 1990). For the reasons below, plaintiff's motion for summary judgment is hereby GRANTED and defendants' motion for summary judgment is hereby DENIED.

I.

In 1987, Plaintiff D. R. Evans ("Evans") moved to 7912 Fairview Road, a 1.28 acre lot in Boulder County ("the County"). During that year, the Federal Communications Commission ("the FCC") granted Evans a federal license to operate an amateur radio station at his new residence. In order to successfully operate this station, Evans needed to erect an antenna on his plot of land. In July, 1987, Evans filed an application with the County seeking to erect a 125-foot ground-mounted antenna. The application was denied.

As a result, plaintiff commenced litigation in October, 1987. He sought a preliminary injunction to require the County to issue the requested permit. The case, number 87-Z-1595, was assigned to Judge Zita L. Weinshienk. Judge Weinshienk held the motion in abeyance and directed plaintiff to apply to the County's Board of Adjustment ("the Board") for a variance. The Board denied the request. On July 29, 1988, Judge Weinshienk upheld the County's denial. Plaintiff's complaint was dismissed on August 1, 1988. On March 12, 1990, the United States Court of Appeals for the Tenth Circuit vacated Judge Weinshienk's ruling that Boulder County's zoning resolution was facially valid, but affirmed the denial to grant a variance to Evans [1].

On March 26, 1990, Evans submitted an application for a special use permit to erect an antenna between sixty and one hundred feet tall. A hearing was held by the Board. However, the application was denied.

On June 29, 1990, plaintiff filed a complaint, alleging that the County's denial was improper. Evans offered three claims for relief, seeking (i) declaratory relief based on federal preemption, (ii) injunctive relief, and (iii) relief resulting from violations the equal protection clause [2]. On August 1, 1990, the parties

[1] Notably, the instant matter addresses Boulder County's newly-promulgated zoning resolution. Hence, Judge Weinshienk's ruling and the Tenth Circuit's decision do not dictate a definitive result under the doctrines of *res judicata*. Cf. *Parklane Hosiery Co. v. Shore*, 439 U.S. 322 (1979), or *stare decisis*, *1B Moore's Federal Practice* @ 0.402[1] (1988).

[2] The equal protection clause of the fourteenth amendment provides that "[n]o state shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV. Notably, Evans has abandoned his claim for relief based on alleged equal protection violations. The issue was not discussed in plaintiff's submissions. More importantly, this claim is deemed irrelevant in light of the court's ultimate holding. See *infra* note 6.

were directed to submit cross-motions for summary judgment. The motions have been submitted and are now before the court.

II.

Summary judgment is not regarded as a disfavored procedural shortcut, but rather as an integral part of the Federal Rules of civil Procedure. *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1986). Granting summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Fed. R. Civ. P.* 56(c); *Lucas v. Mountain States Tel. & Tel. Co.*, 909 F.2d 419, 420 (10th Cir. 1990); *Martin v. Board of County Comm'rs*, 909 F.2d 402, 404 (10th Cir. 1990); *Skidmore, Owings & Merrill v. Canada Life Assurance Co.*, 907 F.2d 1026, 1027 (10th Cir. 1990); *Anderson v. Department of Health and Human Servs.*, 907 F.2d 936, 946 (10th Cir. 1990). A genuine issue of material fact exists only where "there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party." *Merrick v. Northern Natural Gas Co.*, 911 F.2d 426, 429 (10th Cir. 1990). Only disputes over facts that might affect the outcome of the case will properly preclude the entry of summary judgment. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986); *Skidmore*, 907 F.2d 1027.

In reviewing a motion for summary judgment, the court must view the evidence in the light most favorable to the party opposing the motion. All doubts must be resolved in favor of the existence of triable issues of fact. *Lucas*, 909 F.2d at 420; *Martin*, 909

F.2d at 404; *Anderson v. Department of Health and Human Servs.*, 907 F.2d at 946-47.

In a motion for summary judgment, the moving party's initial burden is slight. In *Celotex*, the Supreme Court held that the language of rule 56(c) does not require the moving party to show an absence of issues of material fact in order to be awarded summary judgment. *Celotex*, 477 U.S. at 322. That is, rule 56 does not require the movant to negate the opponent's claim. *Id.* at 323. The moving party must allege an absence of evidence to support the opposing party's case and identify supporting portions of the record. *Id.*

Once the movant has made an initial showing, the burden of proof shifts to the opposing party. *Anderson v. Department of Health and Human Servs.*, 907 F.2d at 947. The nonmovant must establish that there are issues of material fact to be determined. *Celotex*, 477 U.S. at 322-23; *Skidmore*, 907 F.2d at 1027. The nonmovant must go beyond the pleadings and designate specific facts showing that there are genuine issues for trial on every element challenged by the motion. *Willner v. Budig*, 848 F.2d 1032, 1033-34 (10th Cir.), cert. denied, 488 U.S. 1031 (1989). Conclusory allegations will not establish an issue of fact sufficient to defeat summary judgment. *McVay v. Western Plains Serv. Corp.*, 823 F.2d 1395, 1398 (10th Cir. 1987). In reviewing the evidence submitted, the court should grant summary judgment only when there is clearly no issue of material fact remaining. In *Liberty Lobby*, the Court held that summary judgment should be granted if the pretrial evidence is merely colorable or is not significantly probative. *Liberty Lobby*, 477 U.S. at 249-50. In *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574 (1986), the Court held that summary judgment is appropriate when the trial judge can conclude that no reasonable trier of fact could find for the nonmovant on the basis of the evidence presented in the motion and the response. *Id.* at 587. In the instant case, the court concludes there are no genuine issues of material fact, and as a matter of law, plaintiff is entitled to judgment in his favor.

III.

The Supremacy Clause of Article VI of the United States Constitution [3] provides the federal government with the power to preempt state laws. *Louisiana Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 368 (1986). Preemption occurs when (i) Congress, in enacting a federal statute, expresses a clear intent to preempt state law, (ii) an outright conflict exists between federal and state law, (iii) compliance with both federal and state law is in effect physically impossible, (iv) there is an implicit barrier within federal law to state regulation in this area, (v) federal legislation is so comprehensive as to occupy an entire field of

[3] Article VI, clause 2 states, "[t]his Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the

United States, shall be the supreme Law of the Land; and the Judge in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." u.s. Const. art. VI, cl. 2.

regulation, (vi) state law stands as an obstacle to the accomplishment and execution of the full objectives of Congress, or (vii) federal regulations promulgated within the scope of congressionally-delegated agency authority have any of the above effects. *Frontiers Airlines, Inc. v. United Air Lines, Inc.*, No. 89-F-645, slip op. at 13-14 (D. Colo. Apr. 14, 1989) (citing *Louisiana Pub. Serv. Comm'n*, 476 U.S. at 368-69); see also *California v. ARC America Corp.*, 490 U.S. 93 (1989).

The County has argued that its zoning regulations should not be preempted by federal law. The court finds however that the instant case falls under (vi) and (vii). The Boulder County Zoning Resolution stands as an obstacle to the accomplishment and execution of the federal objective of promoting amateur communication. Since the FCC's statutorily-authorized regulations preempt any state or local laws that conflict with or frustrate the promotion of amateur radio communication, *City of New York v. FCC*, 486 U.S. 57, 64 (1988); *Dantus v. First Fed. Sav. & Loan Ass'n*, 502 F. Supp. 658, 661 (D. Colo. 1980), the Boulder County Zoning Resolution must fall.

IV.

In 1934, Congress created the Federal Communications Commission to regulate interstate and foreign communication. 47 U.S.C. § 151 (1962). Based on this authority, the FCC promulgated regulations concerning amateur radio service. 47 C.F.R. § 97 (1989). However, conflicts emerged between federal regulation of amateur radios and local zoning laws. On July 16, 1984, the American Radio Relay League, Inc. requested that the FCC issue a declaratory ruling to delineate the authority state and local zoning and regulatory boards had over federally-licensed radio facilities.

Pursuant to this request, the FCC issued a ruling on September 19, 1985. In the Matter of Fed. Preemption of State and Local Regulations Pertaining to Amateur Radio Serv. ("PRB-1"), 101 F.C.C.2d 952, Fed. Reg. 38,813 (1985). The Commission determined that a limited preemption policy was warranted. *Id.* at ¶ 24. It decided to strike a balance between federal and state interests, stating that "local regulations which involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to accommodate reasonably amateur communications, and to represent minimum practical regulation to accomplish the local authority's legitimate purpose." *Id.* at ¶ 25.

Other federal courts have addressed this ruling and have upheld the preemptive effect of PRB-1. *Izzo v. Borough of River Edge*, 843 F.2d 765i 768 (3d Cir. 1988); *Thernes v. City of Lakeside Park*, 779 F.2d 1187, 1188-89 (6th Cir. 1986); *McMillan v. City of*

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1934 Official

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PPRAA General Meeting

Minutes 14 November 1990

The general meeting of the PPRAA was called to order at 7:00 p.m. by Dave, N01ON. There were 60 members and guests present including several familiar names from Pueblo and Denver. Introductions were made around the room including the latest ham trainee -- Sandra Marie (call pending), new daughter of Renee, KA0ROY and Jeff Boyes, N0JLH.

Changes to the previous minutes were made including the inadvertent omission of the approved change (10 November 1990) to the by-laws. Addition to the by-laws was made in that "the editor of Zero Beat shall serve for as long as that person remains the editor of Zero Beat." Also, corrections to the raffle prize list from last meeting were made: Rod, KA5DVO received both the blue led and the OEM gift certificate. The minutes were then approved as amended.

Rosie, WA0MNL reported that the treasury had an income of \$186.17 and expenses of \$218.23 for a current balance \$2561.73

Chairpersons are needed for the following positions:

- Volunteer Examiner
- Publicity
- Education

Ron, NK0P noted that O-BEAT was set on a laser printer this last month and asked for comments on the appearance. Most comments were very favorable.

The trailer committee reported they had purchased some parts and wire for the trailer.

The Colorado Council of Amateur Radio Clubs (CCARC) held a meeting on 13 October 1990; however, no minutes have been received as yet and club representatives were absent this evening.

Mike, K0TER and the Amateur Radio Emergency Service (ARES) committee reported that the Simulated Emergency Test (SET) held recently went very well and the people in charge indicated they desired continued ham involvement. Thanks was expressed to all Assistant Emergency Coordinators (AEC's).

In Public Service comments, Mike indicated that there was a lull in activity at this time of year and encouraged hams to send amateur radio messages to friends and loved ones over the holidays. Mike also expressed thanks to all the people who have helped on projects this past year.

In Education it was reported that Al, AD0Z, has served faithfully as code instructor for the recent class and several students were tested and passed the test.

During "unfinished business" the tower ordinance was again mentioned. A meeting before the county commissioners is scheduled for 13 December 1990 for final approval. Some changes had apparently crept into the copies after the approval by the planning commission and it was unknown whether a simple mistake occurred or....? The committee will look into the reasons for the changes.

Under "new business" it was reported that the Christmas party will be at the Elk's Club on 12 December 1990. A cash bar will be open at 5:00 p.m. with dinner to begin at 6:00 p.m. followed by a short meeting and entertainment. The primary door prize will be a PK-88 packet controller. Tickets for the party are \$10.00 per person and for the controller \$1.00 a chance. Please call Rosie or other board members for information.

Ron, NK0P reported that the Ham Radio Outlet in Denver had a recent robbery and is offering a \$1000 reward in its efforts to locate the following missing equipment:

- 6 Yaseu FT-212RH radios
- 5 Yaseu FT-47 RH radios
- 6 Icom 725 radios
- 18 Icom 2SAT radios
- 6 Icom 2400 radios
- 6 Icom 24 AT radios

Anyone offered radios like the above at really cheap prices or who has other information should contact George, KD0RW at the store.

It was reported that KA7IVF would like a repeater(?) link to Colorado Springs from his home in Cheyenne Wells which would provide coverage for eastern Kansas. Ron has more details if anyone is interested in looking into this matter.

W0RTB, Harry, is donating a working Isopole which will be passed to ARES when it is received.

The club is starting an award program to recognize service to the club by its members. This item was left out of the board minutes to avoid alerting the first recipient. Rick Kile, WB7THT was given a plaque in appreciation for his service as president of the club.

Announcements:

OEM has moved to 3029 N. Hancock

High Energy Enterprises has open a museum (Nicolas Tesla Museum) at 17 E. Las Vegas. The next board meeting would be held Tuesday (20 Nov.) at Ron's home.

After the break, the raffle was held with the following winners:

WB0MHP, Doug full set of screwdrivers
WB7VHR, Steve Coax cable assembly
WD0K, George QSL cards
N2IWZ, AL OEM gift certificate
N0CYR, Jake OEM gift certificate
N0LA, Pete grab bag

Bill Sheffield, KQ0J, the ARRL Vice-Director and Colorado Section manager was introduced for the presentation part of the meeting. He, in turn, introduced several people who had accompanied him:

Edie, KA0MQA; Bob, WB4FTT, who provided comments on the recent SET; and announced that Jeff, KB0CHT is the new Eastern Slope EC. Bill expressed thanks to Lauren Libby, KX00 for his hard work and service to amateur radio.

Bill also gave much praise to the Colorado Springs amateur community for their service help during the Limon disaster and praised the PPRAA for its service, noting that it was the first Special Service Club in the state. Comments covered a range of subjects including the no-code proposals, 220 Mhz band, WARC-92, SARES, DXing, and league appointments.

Concerning the no-code proposals, the league is working on options and anyone wishing to comment should send comments to Bill, Edie, or Marshall Quiat. The FCC is proposing a more rigorous written exam for the communicator license which will probably replace the Technician class license. Privileges on 220 Mhz, and above are proposed by the ARRL. Also, handicapped licenses were not formally asked for by the league but were proposed by the FCC. The FCC recommended that a doctor could declare a person handicapped and unable to complete testing; then write a letter to the FCC who would grant credit for a license. The ARRL wants a complete, detailed description of the handicap including proof of the problem and will then give help to that person so the test may be passed.

The league is still fighting the loss of portions of the 220Mhz. band and there will be a hearing on the league lawsuit in the US Court of Appeals on 16 November 1990.

Money is needed to support efforts in preparation for WARC-92. This meeting will determine frequency allocations for the future. The league is hoping to achieve some expansion of frequencies.

Bill spoke on the status of the State Amateur Radio Emergency Services (SARES). The organization is a state corporation designed to create added communication capabilities within the state. However, there have been difficulties with the use of the equipment and the program was in a state of limbo for a time.

Coors donated a 1979 van for SARES use but the cost of license, insurance, etc. was prohibitive and the location of the van within the state caused concern. Thus, it was voted to sell the van and purchase some trailers which could be located in various portions of the state.

The 146.805 SARES repeater will be moved to the top of the fire station tower in Aurora with 450 and 220 Mhz links in an effort to improve communications to Colorado Springs and Pueblo.

In DXing matters, Bill indicated the ARRL was 5175 DXCC applications behind. However, they are working on a new filing system and have been moving 200 + applications a week. Persons who have applied for DXCC are asked to be patient. In other matters, Bill noted that 7 Oscar and 4 Whiskey have been abolished as countries. East and West Germany are now under one German call.

After questions and comments from the group, the meeting was adjourned at 8:50 p.m. The next regular meeting will be 12 December 1990 (Christmas party). The January meeting will be homebrew night.

Respectfully submitted, Mark, N0EPF

PPRAA Board Meeting Minutes

20 November 1990

The board meeting of the PPRAA was called to order by Dave, N0ION at 7:05 p.m. in the home of Ron, NK0P. Present were: Dave - N0ION, Ron - NK0P, Harve - WB6YXO, Rosie - WA0MNL, Lauren - KX00, Russ - KB0FNM, Al - N0CMW, Jeff - N0ILH, Renee - KA0ROY, Bud - N0DDF, Rick - WB7THT, Mark - N0EPF, and Cassie (no call and sleeping).

It was moved and passed by the board that VE testing be postponed for the upcoming session because there is no coordinator to accept applications and handle testing arrangements.

News was brought that the Boulder tower ordinance was overturned in U.S. district court.

Bud - N0DDF submitted his resignation as education chairman effective immediately. The board thanked him for his service. Bud indicated he has materials for the new chairman.

It was moved and passed by the board to purchase a Heath electronic keyer for the code classes.

Rosie indicated she received some renewals for membership that were submitted with the old amounts. The board agreed that those people should

be contacted and given the option of submitting the extra \$2.00 or having their 0-BEAT subscription decreased by 2 months.

ARES requested that the club help with the ordering/selling of ARES supplies. It was moved and passed that a \$100 revolving fund be set up for ARES to utilize in the purchase of equipment and supplies. Discussion affirmed that this money would be replaced as ARES resold the supplies to area hams.

The board noted that a motion had previously been passed to provide a fund not to exceed \$5.00 per month to ARES for stamps, etc. The motion had failed to appear previously in 0-BEAT.

Discussion of plans for the Christmas party centered on the time for entertainment. 8:00 p.m. was set as the approximate start of entertainment which was to follow the short club meeting. Details on the Christmas party appear elsewhere in this issue.

Ron-NKOP brought up the subject of 0-BEAT advertisers and indicated that the Wintronix ad will be changed. The board indicated a desire to encourage Ham Radio Outlet to remain as an advertiser. Ron noted the Centennial ad is old and worn and asked for someone to contact them about upgrading their ad. The board also felt it would be a good idea to send Christmas cards to 0-BEAT advertisers.

A new editor for 0-BEAT is no longer needed. Ron expressed his desire to remain as editor but noted he can use extra help with some aspects of the project. He said all 300 copies of 0-BEAT were used this month.

Mark-N0EPF will look into having new mailbox keys made as only one key can currently be found.

Programs were set for the upcoming months. (A question mark indicates that the program has not been finalized).

January	Homebrew night
February	SET/CAP
March	Colorado Connection presentation ?
April	Lightening/electrical grounding ?
May	Severe weather ?

A reminder was made to board members that non-officers are to serve as greeters at club meetings.

In other business, Jeff-N0JLH agreed to serve as chairman of the Swapfest committee and Lauren-KX00 agreed to serve as chairman of the interference committee. The club still needs chairpersons for:

EDUCATION
VE TESTING
PUBLICITY

There being no further business for the board, the meeting adjourned at 8:35 p.m. The next meeting will be at Al's home (N0CMW) on 17 December 1990.

Respectfully submitted, Mark-N0EPF

PORTABLE OPERATION

Rick Brown - KD0SU

One of the things I have always enjoyed about Ham Radio is operating from various portable locations. I recently purchased an Icom 725 HF radio that really makes portable operation a lot easier. The radio itself is quite small and this really lends itself to portable operation. I have had the opportunity lately to try out the radio in a couple of different settings.

I just returned from a week in northern Wisconsin where I was able to do a lot of operation with the ICOM 725. I traveled by plane most of the way and was able to carry the radio on board with me. I will admit that my carry on luggage was checked a lot closer by the security folks than it has ever been before. The radio is small enough that it fit in a padded carrying bag that I could easily put under the seat of the plane. I did not have a small power supply to take along so I had to resort to an alternative source. When I got to my destination I was able to borrow a 12 volt deep cycle battery that is used for recreational purposes. I also borrowed a 10 amp battery charger and I was set. I originally tried it with an old car battery and the charger, but apparently it would not produce enough continuous current to put out full power. In fact, it was the first time I had gotten a report of having a buzz on my CW signal. I have used a car battery at home in this configuration, but the deep cycle battery is certainly preferable. I also planned ahead and had a power cable made up with large clips from Radio Shack like you find on a battery charger. If you plan to do this be sure to get ones large enough to handle the current your radio draws.

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SKYWARN

Some people would think this was a little early to be talking about SKYWARN activities, but to me, severe weather runs the gamut from thunderstorms to blizzards, give or take a few ice storms in between. With winter knocking at our front door, each of us should be prepared for the unknown, like loading your vehicle up with extra warm clothes, food, candies, flashlights, snow shovel, first aid kit, sand, list of emergency numbers, maps of the cities and counties surrounding us and your two meter rig tuned to the 146.97 repeater. If a severe weather net is in progress on the repeater, listen to the net and if you can provide help or need information contact the net control station. Remember to be patient and don't forget to keep your transmissions short!

When the new year arrives, SKYWARN training will start in Denver and the Colorado Springs area. If you would like to participate in this training, contact my self, NOKIC, KOTER or NOAA. If you are not familiar with this program, the following definition is from the Memorandum of Understanding between the National Weather Service (NWS) and the American Radio Relay League - "SKYWARN is the weather spotter program sponsored by the National Weather Service (NWS). Radio amateurs have assisted as communicators and spotters since its inception. In areas where tornadoes and other severe weather have been known to threaten, NWS recruits volunteers, trains them in proper weather spotting procedures and accepts the volunteers' reports during watches and episodes of severe weather. Byutilizing the SKYWARN volunteers, the NWS has "eyes and ears" throughout the affected area in conjunction with NWS sophisticated weather monitoring equipment."

So if you hear "This is ????? Net Control for the District 14 Severe Weather Net...time is 1300 local" something interesting is stirring above your QTH, or maybe floating by...hi...!!!

73

Doug / N4TGO District 14 Severe Weather Net
Manager

Steve / WB7VHR Assistant Severe Weather Net Manager

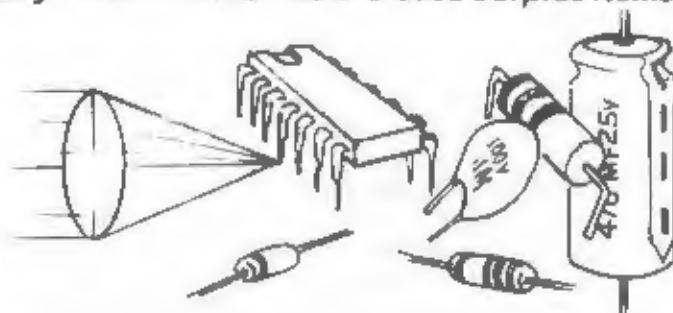
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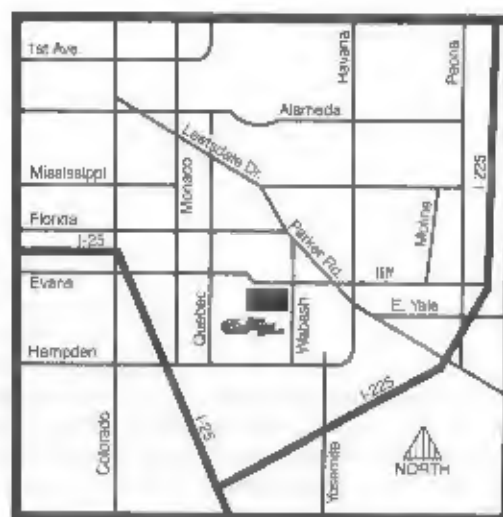
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Rocky River, No. 87-CV-2820, slip op. at 15-16 (N.D. Ohio Sept. 21, 1990); *Williams v. City of Columbia*, 707 F. Supp. 207, 210-11 (D.S.C. 1989), *aff'd*, 906 F.2d 994 (4th Cir. 1990); *Howard v. City of Burlingame*, No. C-87-5329 (N.D.-Cal. July 29, 1988) (1988 WESTLAW 169074); *Bodony v. Incorporated Village of Sands Point*, 681 F. Supp. 1009, 1011-13 (E.D.N.Y. 1987); *Bulchis v. City of Edwards*, 671 F. Supp. 1270, 1273 (W.D. Wash. 1987). When addressing the respective complaints, these courts invalidated the local regulations as applied. This court is persuaded that Boulder County's regulation must be rejected on its face.

In PRB-1, the FCC was unwilling to specify a minimum permissible antenna height, PRB-1 at @@ 24-25. The Commission did state that local regulations that operate to preclude amateur communications in their communities are in direct conflict with federal objectives and must be preempted [4]. The FCC did not elaborate on what types of preclusion would be forbidden. However, Judge Weinshienk in the prior litigation ruled that flat prohibitions are not permitted. (Hearing on the Merits, Plaintiff's Exhibit 6 at 72). The Northern District of California and Eastern District of New York also have indicated that absolute prohibitions are invalid. *Howard*, 1988 WESTLAW 169704; *Bodony*, 681 F. Supp. at 1012-13. An evaluation of Boulder County's zoning resolution demonstrates that such an impermissible prohibition has been enacted.

Article 6A-301 of the Boulder County Zoning Resolution states that the maximum structure height is thirty-five feet [5]. Boulder County Zoning Resolution, Art. 6A-301(4) (1988). In order to erect a structure taller than thirty-five feet, the final option in

[4] The court is not persuaded that the only needs to be considered are the amateur radio community at large. The language of PRB-1 as a whole and 47 C.F.R. § 97.15(e) indicate that preclusions in amateur communications are to be avoided.

[5] It is undisputed that a thirty-five foot antenna would not be effective. (Deposition of Timothy Cutforth, Plaintiff's Exhibit 10 at 16-17).

Boulder County is to apply for a special use permit pursuant to article 20-301 of the zoning resolution. This article provides that "[a]n application for a Special Use [Permit] shall be approved only if the Board of County Commissioners finds that the proposed special use [permit] . . . [c]omplies with the minimum zoning requirements of the zoning district in which the special use is to be established, as set forth in this Resolution." Zoning Resolution, Art. 20-301(1) (emphasis added). The resolution states in Article 6A-301 that no structure can exceed thirty-five feet. Under the explicit language of the resolution therefore, a permit can be granted only if it complies with the thirty-five foot height limitation. While Boulder County may have the power to place some restrictions on the height of antennas, *Williams v. City of Columbia*, 909 F.2d 994, 998 (4th Cir. 1990),

this resolution acts as an absolute prohibition on amateur radio antennas over thirty five feet. In light of Judge Weinshienk's ruling, *Howard*, and *Bodony*, absolute prohibitions cannot stand. They contravene the very purpose behind the federal government's policy in the promotion of amateur radio service and preclude amateur radio communication, PRB-1 at @ 24. While the court is sensitive to the federal judiciary's traditional respect for local administration and land use regulation, *Izzo*, 843 F.2d at 769, we have no option but to rule that the Boulder County Zoning Resolution cannot withstand constitutional scrutiny, is preempted by federal law, and must be invalidated on its face [6].

V.

ACCORDINGLY, IT IS ORDERED:

1) Plaintiff's motion for summary judgment is hereby GRANTED. 2) Defendants' motion for summary judgment is hereby DENIED. 3) The clerk of the court is DIRECTED to enter judgment in favor of the plaintiff and against the defendants. Each party is to bear their own costs. 4) The Boulder County Zoning Resolution, only as it relates to amateur radio communications, is preempted by federal law and is invalidated on its face. 5) In accordance with this ruling, Boulder County is DIRECTED to reconsider plaintiff's application to erect an amateur radio antenna within six months of the entry of this order.

Dated this 13 day of November, 1990, at Denver, Colorado.

By the Court:

Sherman G. Fliesilver,
United States

Chief Judge
District Court

[6] Invalidation of the resolution on preemption grounds renders analysis of the litigants' other arguments unnecessary. *Williams*, 707 F. Supp. at 212 n.4.

DITS AND BITS

Computer Systems For Sale:

System #1 - VIC 20 with Data Cassette, VIC-1525 Printer, 5 KByte expansion card, and Home productivity software. \$195.

System #2 - VIC 20 with Kantronics "Interface," and Hamsoft Operating System software. Great CW RTTY, and ASCII setup. \$195.

System #3 - VIC 20 with dual paddles, Sargon Chess, and over a dozen game modules. \$85.

Any part of the above systems available separately. Call for prices or to make offer. Doug (WB0MHP), 599-9605 after 5 pm.

For Sale - Heathkit IM-1202 Digital Multimeter. Works great. \$25. Call Doug (WB0MHP), 599-9605 after 5 pm.

For Sale - CDE AR-33 rotor with pushbutton control box. Great for small VHF/UHF beam. \$25. Call Doug (WB0MHP), 599-9605 after 5 pm.

For Sale - Micronta Mini Digital Car Clock/Tachometer (never used). \$15. Call Doug (WB0MHP), 599-9605 after 5 pm.

Wanted: Icom IC 2A or 2AT in good working condition for under \$100. Dead or no battery OK. Call Doug (WB0MHP), 599-9605 after 5 pm.

For Sale: Kenwood TS-520 SE HF TCVR w/ Electrovoice desk mic, manual and carton. Call Joe WT0C (303) 795-3397.

EL PASO COUNTY TOWER ORDINANCE UPDATE

Final action is scheduled for Dec. 13, 1990

The latest version of the tower ordinance passed the county planning commission on Sept. 18th by unanimous vote. The proposed ordinance was supported by a group of approximately 25 hams.

After a long series of negotiations with the county planning dept. and the planning commission, which stretched over the past two years, the ham radio negotiating team was finally able to get the ordinance into a form that could be supported by the ham radio community.

The proposed ordinance will come before the El Paso County Commission for final action on Dec. 13th. If the commission passes the proposal, the ordinance becomes the law. The hearings will be held in Centennial Hall Auditorium, 200 South Cascade. We are not sure of the time of the hearings at this time. We will find out our place on the agenda about Dec 10th, and we will begin making announcements on the 146.97 repeater regarding what time we need to be present.

A recent court decision in boulder upheld the rights of amateurs to put up towers, and

TRIVIA CORNER

The answer to last months question was: 1968

Since no one correctly identified the answer, this months question will be worth \$10.00 in cash!

The question is:

Who was the newly elected president of the PPRAA in November 1968.

Send your answers to:

EDITOR: OBEAT
4305 Ridgeline Drive
Colorado Springs, CO. 80918

Remember: In case of tie 1st postmark wins. If two have the same postmark winner will be drawn at the next club meeting. You must be a PPRAA club member to win!

If you have a Trivia question you would like to see printed here send it to the Editor at the above address.

GOOD LUCK!!!

Tower ordinance cont.

reaffirmed the preemptive power of the federal government under PRB-1. This court decision seems to strongly support our position but we are not sure what specific effect it will have on the El Paso County situation.

We need a large group of amateurs to attend the hearing on Dec. 13th to insure that our desires are heard. The future of amateur radio towers in the county is at stake. Please plan to be there.

Hal Bergeson, W0MXY (11/29/90)

The other part of portable operation is the antenna. I wanted to get on most of the HF bands, but wanted to keep things light and simple. My solution was to use a dipole antenna like the one Paul, WORW described in a past issue of Q-Beat. I made my antenna to include 40,20,17,15, and 10 meters. If you are not familiar with this, it is a dipole cut for the lowest frequency you want to operate, then broken up at shorter lengths with insulators. Pigtales and alligator clips are used to clip the sections together for the frequency you want to operate. Being cheap, I used small pieces of Plexiglas for the insulators. This made a quite small antenna that rolled up nicely to go in my suitcase. I took along a roll of nylon twine to support the antenna and it worked out very well. I was lucky enough to find two pine trees about 75 feet apart that were admirable supports for the dipole. I don't think this type of set up can be beat for simplicity and flexibility. I do admit changing bands when it is 20 degrees out at 0630 is chilling, but what an invigorating way to start the day.

Of course, no report like this would be complete without some comments on what I was able to work. Since I was in the north woods of Wisconsin and not on a DX island somewhere I can't say I generated any pile ups. I did however work most of the people I wanted to, including a DXpedition to T33R (Where is that anyway?). I also set a personal goal of working all states in the week I was there. Did I do it? Yes, with the help of the ARRL Sweepstakes contest, and some very friendly folks who helped me work a couple of needed states just before returning home. There are probably a couple other stories in this, so stay tuned.

As some folks would say, what is the point? Well, I would like to say I am now ready to take the rig out and operate just about anywhere and I have the experience to do it. Also, it sure was fun to do something different. I operated on HF bands that I had not used in years and I got out of the rut of only operating 10 and 15 meters. I found I really don't need a beam and a kilowatt to get on 20 and there are some great folks on some of the nets on 40 meters. Also, 17 meters is a great band for ragchewing and DX. Try something different and see how much fun you can have.

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